

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
COURT FILE NO.: _____**

Mary K. Powers,

Plaintiff,

v.

U.S. Bancorp d/b/a U.S. Bank National
Association,

Defendant

**COMPLAINT WITH
JURY TRIAL DEMAND**

PRELIMINARY STATEMENT

1. Plaintiff brings this action for damages against U.S. Bancorp. d/b/a U.S. Bank National Association (hereinafter “Defendant”) for violations of the Fair Credit Reporting Act, 15 U.S.C. § 1681s-2b *et seq.*

JURISDICTION

2. Jurisdiction of this Court arises under 15 U.S.C. § 1681 *et seq.*, and 28 U.S.C. § 1331.

PARTIES

3. Plaintiff, Mary K. Powers, is a natural person who resides in the City of Minneapolis, County of Hennepin, State of Minnesota. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. § 1681a(3).

4. Defendant U.S. Bancorp d/b/a U.S. Bank National Association (hereinafter “Defendant”) is a national association and is regulated by the Office of the Comptroller of the Currency. Defendant has a registered office address of 601 Second Avenue, Minneapolis, MN 55480. Defendant is a “furnisher” as described at 15 U.S.C. §1681s-2b et seq. and as a “person” as defined at 15 U.S.C. §1681a(b).

FACTUAL ALLEGATIONS

5. Mary K. Powers was divorced from Gregory J. Powers in 2002.
6. Prior to the divorce Gregory J. Powers and Plaintiff incurred an alleged debt with Defendant on account #105187043184.
7. Plaintiff made arrangements in 2002 in her divorce from Gregory J. Powers for a payment on the joint unpaid U.S. Bank account #105187043184 and a check (Barbara J. May Trust Account #2628 from Norwest Bank dated 9-26-02 in the amount of \$1,037.62) was paid to Defendant which paid in full that obligation. (See Exhibit 1 attached hereto.)
8. On May 24, 2004, Plaintiff disputed “inaccuracies” in her personal credit report regarding the joint account with Defendant (#105187043184) pursuant to 15 U.S.C. §1681i with the national credit reporting companies; i.e. Trans Union, Equifax and Experian. (See Exhibit 2 attached hereto).
9. Upon information and belief, after this time in May of 2004, Plaintiff’s personal

credit history with both Equifax and Trans Union was corrected and the Defendant's account # 1051877043184 tradeline was deleted and not reported.

10. Unbeknownst to Plaintiff, and upon information and belief, Plaintiff's credit history was worsened after her disputes in 2004 because the "inaccuracy" she had disputed with Experian and Defendant became a "Bankruptcy" notation on the Defendant's tradeline on Experian's Credit Report dated 9-9-07.
11. In August of 2007 Plaintiff closed her U.S. Bank/Northwest Airlines credit card because the annual fee was greater than the benefit of the card.
12. In August of 2007 Plaintiff applied for an employer sponsored credit card at Wells Fargo Bank where she is employed.
13. Plaintiff's employer (Wells Fargo) denied Plaintiff's credit application because of an Experian Credit Report which showed that Plaintiff had a "Bankruptcy on his/her credit bureau." (*See Exhibit 3 attached hereto*).
14. Plaintiff has never filed for Bankruptcy.
15. Plaintiff disputed for a second time this "inaccuracy" on her credit report with Experian on September 6, 2007, and demanded that the "inaccuracy" be removed and a "clean" and accurate credit report be issued to her. (*See Exhibit 4 attached hereto*).
16. On September 9, 2007, Experian verified to Plaintiff that Defendant would not remove the Bankruptcy from her credit report, in violation of 15 U.S.C. §1681s-2(b). (*See Exhibit 5 attached hereto*).

17. Defendant has thus marred Plaintiff's credit profile which has wide ranging ramifications in violation of 15 U.S.C. §1681s-2(b) and thus caused her actual damages in the form of emotional distress and out-of-pocket loss.

TRIAL BY JURY

18. Plaintiff is entitled to and hereby requests a trial by jury. US Const. Amend. 7. Fed. R. Civ. P. 38.

CAUSES OF ACTION

COUNT I.

**VIOLATION OF THE FAIR CREDIT REPORTING ACT –
15 U.S.C. § 1681 ET SEQ.**

19. Plaintiff incorporates by reference all preceding paragraphs as though fully stated herein.
20. Defendant by falsely stating that Plaintiff owed a debt to it after 2002 when in fact Plaintiff paid the debt and ignoring its duty to fully investigate disputes when notified by a credit reporting agency per 15 U.S.C. §1681i was an intentional act.
21. Defendant's conduct and inaction regarding 15 U.S.C. § 1681s-2(b), caused Plaintiff expenses in the form of attorneys fees, loss of time, lack of concentrations, head aches, frustration and anxiety, emotional distress, humiliation and mental anguish, and damage to personal reputation in her employment and in other areas of her life and fear of using her credit reputation.

22. Defendant's conduct provides a basis for statutory and actual damages in an amount to be determined by the Court pursuant to 15 U.S.C. §1681m & n.
23. Plaintiff is entitled to recover costs and attorney fees from Defendant in an amount to be determined by the Court pursuant to 15 U.S.C. §1681m & n.

WHEREFORE, Plaintiff prays that judgment be entered against this Defendant for:

- a) actual damages in an amount greater than \$25,000 against Defendant;
- b) statutory damages per 15 U.S.C. §1681a et. seq.;
- c) costs and reasonable attorney fees pre and post judgment pursuant 15 U.S.C. §1681m & n et seq.;
- d) injunctive relief against the Defendant to correct Plaintiff's credit report; and,
- e) for such other and further relief as the Court may deem just and proper.

Dated this 7th day of March, 2008.

By: s/Thomas J. Lyons, Jr.

CONSUMER JUSTICE CENTER, P.A.

Thomas J. Lyons, Jr., Esq.
Attorney I.D. #: 249646
367 Commerce Court
Vadnais Heights, MN 55127
Telephone: (651) 770-9707
Facsimile: (651) 704-0907
tommycj@comcast.net

LYONS LAW FIRM, P.A.

Thomas J. Lyons, Sr., Esq.
Attorney I.D. #: 65699
367 Commerce Court
Vadnais Heights, MN 55127
Telephone: (651) 770-9707
Facsimile: (651) 770-5830
tlyons@lyonslawfirm.com

Attorneys for Plaintiff

VERIFICATION OF COMPLAINT AND CERTIFICATION BY PLAINTIFF

[illegible]

Mary K. Powers, having first been duly sworn and upon oath, deposes and says as follows:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorney and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification, or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendants, cause unnecessary delay to any Defendants, or create a needless increase in the cost of litigation to any Defendants, named in the Complaint.
5. I have filed this civil Complaint in good faith and solely for the purposes set forth in it.

s/Mary K. Powers
Mary K. Powers

Subscribed and sworn to before me
this 6th day of March, 2008.

s/Thomas J. Lyons
Notary Public